

REMARKS

I. Status of Claims

Claims 1-2, 7, 10, 12-13, and 22 are pending. Claims 1 and 22 are independent. Claims 1, 7, 10, and 12-13 are currently amended. Claim 22 is newly added. Claims 3-4, 8-9, 11, and 21 are canceled herewith without prejudice to and/or disclaimer of the subject matter therein.

The Office Action rejected claims 1-4, 7-13, and 21 under 35 U.S.C. § 112, first and second, paragraphs.

The Office Action rejected claims 1-4, 7-13, and 21 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hamada et al. (JP2001-357869) (hereinafter “Hamada”) in view of Katsuo (JP Publication 06-267564) (hereinafter “Katsuo”).

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

II. 35 USC § 112, first and second, Paragraphs

In order to overcome the rejections under 35 U.S.C. § 112, first and second, paragraphs, the claims have been amended to correct any perceived ambiguity. We note that support for the language “a cross-sectional area of gas paths formed between the ribs of the first cell block are larger than gas paths formed between the ribs of the second cell block” can at least be found in paragraph [0027] of the Applicant’s application as published.

III. Pending Claims

Claim 1 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hamada in view of Katsuo.

The Applicant respectfully submits that claim 1 is patentable over the cited references at least because it recites, *inter alia*, “...a first cell block having a pressure loss smaller than that of a second cell block, each cell of the cell blocks having at least one separator including a plurality of grooves that form a gas passage of the separator and a plurality of ribs that are provided between the grooves, wherein a pitch between the ribs of the first cell block is larger than a pitch

between the ribs of the second cell block such that the first and second cell blocks have different water draining characteristics.” (emphasis added)

The Applicant also respectfully submits that claim 22 is patentable over the cited references at least because it recites, *inter alia*, “...a first cell block having a pressure loss smaller than that of a second cell block, each cell of the cell blocks having at least one separator including a plurality of grooves that form a gas passage of the separator and a plurality of ribs that are provided between the grooves, wherein a pitch between the ribs of the first cell block is larger than a pitch between the ribs of the second cell block.” (emphasis added)

In contrast to the inventions of claims 1 and 22 (i.e., claim 22 of the revised claim set), although Hamada discloses that a cross-sectional area of a gas path is changed by changing a depth of a groove, it does not disclose changing the pitch (i.e., a distance between adjacent ribs 35, 36) between ribs (e.g., wherein a pitch between the ribs of one cell block is different from a pitch between the ribs of another cell block). In other words, Hamada neither teaches nor suggests a plurality of ribs as claimed in the inventions of claims 1 and 22. We note that the distinction between using ribs and varying depths of grooves is evidenced by the discussion in paragraph [0033] of the Applicant’s application as published, provided herein below:

[0033] In the fuel cell 10 according to the shown embodiment of the present invention, the cell 20b in which the pressure loss is small is configured using the separator 30b in which the ribs 35, 36 in the concave groove 43 and the concave groove 48 are formed to be slightly smaller than those in the separator 30 of the cell 20....

Also, the Applicant respectfully submits that the other references do not cure this deficiency of Hamada.

Further, the Applicant respectfully submits that the cited references fail to identify a reason why one of ordinary skill in the art would modify Hamada (e.g., in view of Katsuo) in the manner as claimed by the Applicant. The Applicant respectfully submits that, as discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), it remains necessary to

identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant.

In addition, the Applicant respectfully submits that, in the instant case, any conclusion of obviousness that is based on a purported modification of Hamada/Katsuo would be based on improper hindsight reasoning. The Applicant respectfully submits that it is not proper to use hindsight to pick features of references without providing any reason in the prior art itself for making the alleged combination. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). That is, it is not proper under 35 U.S.C. § 103 to use Applicant's invention as a blueprint to pick and choose unrelated features of unrelated references to reproduce, in hindsight, Applicant's invention.

Therefore, the Applicant respectfully submits that, for at least these reasons, claims 1 and 22, as well as the dependent claims of claim 1, are patentable over the cited references.

IV. Conclusion

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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